

90th Legislative Session – 2015

Committee: House Appropriations

Tuesday, February 24, 2015

P - Present
E - Excused
A - Absent

Roll Call

P Bordeaux
P Ring
P Hunhoff (Jean)
P Partridge
P Anderson
P Romkema
P Jensen (Alex)
P Dryden, Vice-Chair
P Cronin, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Chair Cronin.

MOTION: TO APPROVE THE MINUTES OF FEBRUARY 20, 2015

Moved by: Anderson
Second by: Bordeaux
Action: Prevailed by voice vote.

The gavel was passed to Vice Chair Dryden.

HB 1228: establish the state debt collection office.

Presented by: Representative Justin Cronin
Proponents: Jason Dilges, Bureau of Finance & Management
Opponents: Drew Duncan, South Dakota Collectors Association

MOTION: AMEND HB 1228

On the printed bill, delete everything after the enacting clause and insert:

" Section 1. There is hereby created the obligation recovery center. The obligation recovery center is attached to the Bureau of Administration for budgeting and reporting purposes.

Section 2. Terms used in this Act mean:

- (1) "Center," the obligation recovery center;
- (2) "Debt," a legal obligation to pay money, including any principal, any interest that has accrued or will accrue until the debt is paid, any penalties, any costs, and any other charges permitted by law. The term debt includes any obligation of any kind referred to the obligation recovery center for collection by any state government agency, by the Unified Judicial System, by the Board of Regents, or by a constitutional office;
- (3) "Debtor," a person who is indebted to the state or a state agency for any delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state, or any person that owes any obligation being collected by the obligation recovery center;
- (4) "Final debt," any debt due a state executive branch agency, the Board of Regent's system, or a constitutional office that is no longer subject to an administrative appeal or judicial review following an administrative appeal, or any costs, fines, fees or restitution ordered in any adult criminal proceeding through the Unified Judicial System no longer subject to direct appeal pursuant to § 23A-32-2;
- (5) "Final notification," the notification provided by section 7 of this Act; and
- (6) "Referring entity," the entity referring the debt to the state obligation recovery center for collection.

Section 3. The center shall work to collect each final debt referred to the center. The character of the debt in the hands of the referring entity does not change by the referral of the debt to the center for collection. Among other powers granted by this Act, the center may:

- (1) Sue;
- (2) File liens;
- (3) Enter into payment agreements with debtors;

- (4) Impose a cost recovery fee;
- (5) Collect data for debt collection purposes;
- (6) Establish and maintain a centralized electronic debt management system;
- (7) Exercise settlement authority granted by the referring entity;
- (8) Setoff against any moneys to be paid by the State of South Dakota or any referring entity to a debtor;
- (9) Contract with multiple collection agencies for the collection of debt on behalf of the center;
- (10) Except for the debt collection powers vested in the Unified Judicial System, the center may use the referring entity's statutory collection authority to collect the final debt owed to the referring entity; and
- (11) Utilize all debt collection methods authorized by state law.

The office may determine which method or combination is most suitable to collect the debt.

Section 4. For any final debt referred to the center for collection after July 1, 2015, the center shall collect a cost recovery fee in addition to the debt referred to the center for collection. The cost recovery fee is calculated by multiplying the principal amount of the debt referred to the center by twenty percent. All debt collection methods available to collect any final debt referred to the center may be used by the center to collect the cost recovery fee. The cost recovery fee shall be deposited into a fund to be used to fund the operations of the center.

Section 5. The center shall retain the cost recovery fee and transfer any other moneys collected from a debtor to the referring entity within thirty days after the end of the month in which the moneys were collected. If the amount collected is less than the principal amount of the debt referred to the center and the cost recovery fee imposed by this Act, the amount collected shall be prorated between the principal amount of the debt referred and the cost recovery fee.

If more than one referring entity has referred a debt to the center regarding the same debtor, or if the same referring entity has referred multiple debts to the office regarding the same debtor, the center shall collect the first referred debt before proceeding to the collection of the subsequent referred debt in the order referred.

Section 6. The center may be used as follows:

- (1) Any executive branch agency may use the center to collect final debt owed to an executive branch agency;
- (2) The Unified Judicial System may use the center to collect any costs, fines, fees, or restitution, constituting final debt, ordered in any adult criminal proceeding;
- (3) The Board of Regents may use the center to collect any final debt owed within the South Dakota Board of Regents' system; and
- (4) Any constitutional office may use the center to collect final debt owed to the constitutional office.

Section 7. Prior to transferring any debt to the center for collection, the referring entity shall provide a final notification to the debtor that the debt will be referred to the center for collection.

The final notification to the debtor may be sent by regular mail or by electronic means. The final notification shall contain all of the following:

- (1) The name of the referring entity;
- (2) Contact information for the referring entity;
- (3) The name of the debtor;
- (4) The nature of the debt;
- (5) The principal amount of the debt;
- (6) The total amount of the debt;
- (7) A statement that the debt will not be turned over for collection to the center until a time at least fourteen days after the date the final notification is sent to the debtor; and
- (8) A statement that if the debt is turned over to the center, a cost recovery fee of twenty percent of the principal, in the amount of \$ _____, will be added to the total debt owed by the debtor to the referring entity.

Section 8. All data, records, and files utilized for debt collection as provided for in this Act shall be confidential and privileged, and no person may divulge or disclose any information obtained from such records and files except in the administration and enforcement of this Act, or as otherwise required by law.

Section 9. The center may collect data for purposes of collecting any debt referred to the center. Notwithstanding any law to the contrary, referring entities are authorized to transmit data to the center deemed necessary by the center to aid in the collection of the referred debt and the center may share, request, and shall receive from any state agency any data to collect any debt referred to the center. Any information provided by a referring entity or a state agency may only be used for the purpose of collecting the debts referred to the center.

Section 10. The center shall establish and maintain a centralized electronic debt management system to compile the information provided by referring entities, to track the collection efforts for all debt referred to the center, to cross-reference and identify debtors for collection purposes, and to maintain all information provided or collected from all sources concerning addresses, financial records, and any other information useful to the center.

The center may designate a third party to establish and maintain the centralized electronic debt management system. Any such third party shall keep all information it obtains from any source confidential, and any employee, agent, or representative of that third party is prohibited from disclosing that information to anyone other than the center.

Section 11. No person that owes a debt that is referred to the center may renew, obtain or maintain:

- (1) Any registration for any motor vehicle, motorcycle, or boat, in which the person's name appears on the title of the motor vehicle, motorcycle, or boat;
- (2) Any driver license as defined by subdivision (1) of § 32-12-1; or
- (3) Any hunting license, fishing license, state park permit or camping permit;

unless the debt and cost recovery fee is either paid in full or the debtor has entered into a payment plan with the center and payment pursuant to the plan is current.

Section 12. No agency, board, or entity of the State of South Dakota may issue, renew, or allow an individual to maintain any motor vehicle, motorcycle, or boat registration, driver license, hunting license, fishing license, state park permit, or camping permit, after receiving notice from the center that the applicant, registrant, or licensee has a debt that is being collected by the center, unless the applicant, registrant, or licensee has paid the debt and cost recovery fee in full or the debtor has entered into a payment plan with the center and payment pursuant to the plan is current.

An applicant, registrant, or licensee who disputes a determination by the center that the applicant, registrant, or licensee has a debt that has been referred to the center for collection shall, upon request, be given a due process hearing by the center. Upon recommendation by the center, the agency or entity may issue a temporary license, registration, certification, or permit to the applicant, registrant,

or licensee pending final resolution of the due process hearing.

Section 13. Unless preempted by other law, any payment of any kind to be made to a debtor by the State of South Dakota or any referring entity, when the debtor has a debt that is referred to the center, is subject to offset by the center unless the debt and cost recovery fee is either paid in full or the debtor has entered into a payment plan with the center and payment pursuant to the plan is current.

Section 14. If the center is unable to collect the debt referred to it, the center, with the approval of the referring entity, may forward the debt to a collection agency or agencies for collection. The debt collection agency shall be permitted to add a collection charge, not to exceed twenty percent of the debt, to the debt forwarded to the collection agency as payment for its collection services. The center shall promulgate rules pursuant to chapter 1-26 concerning the process of contracting with and referring debt to debt collection agencies.

Section 15. The center may promulgate rules, pursuant to chapter 1-26, in the following areas:

- (1) Definitions;
- (2) Procedure for remitting moneys collected to referring entities;
- (3) Processes and procedures for entering into payment agreements with debtors;
- (4) A process for the imposition of the cost recovery fee;
- (5) The data collection system;
- (6) The centralized electronic debt management system;
- (7) The settlement authority process;
- (8) The procedure for sending information to the Division of Motor Vehicles concerning the nonrenewal of registrations for motor vehicles, motorcycles, and boats;
- (9) The procedure for sending information to the Department of Public Safety concerning the nonrenewal of driver licenses;
- (10) The procedure for sending information to the Department of Game, Fish and Parks concerning the nonissuance of hunting licenses, fishing licenses, state park permits and camping permits; and
- (11) The setoff of debt process.

Section 16. The center shall annually report after conclusion of the prior fiscal year to the Government Operations and Audit Committee concerning the activity of the center including the number of debts referred to the entity, the annual amount and nature of the debt obligations recovered by the center, the number of debts referred from the center to private collection agencies and the results of those referrals, and the costs and expenditures incurred by the center."

Moved by: Anderson
Second by: Romkema
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1228 AS AMENDED

Moved by: Jensen (Alex)
Second by: Romkema
Action: Prevailed by roll call vote. (8-1-0-0)

Voting Yes: Bordeaux, Hunhoff (Jean), Partridge, Anderson, Romkema, Jensen (Alex), Dryden, Cronin

Voting No: Ring

The gavel was passed to Chair Cronin.

HB 1046: repeal certain provisions regarding zero based budgets and the coordination of federally aided programs.

Presented by: Representative David Anderson

MOTION: AMEND HB 1046

1046mb

On page 3 of the printed bill, delete lines 23 and 24.

On page 4, delete lines 1 to 13, inclusive.

On page 4, after line 23, insert:

" Section 12. That § 4-7-1 be amended to read as follows:

4-7-1. Terms used in this chapter, unless the context otherwise requires, mean:

- (1) "Appropriation," an authorization by the Legislature to a budget unit to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure described in this chapter;
- (2) "Budget," the complete financial plan for the state for the fiscal period as proposed in the budget report and modified and adopted by appropriation and revenue acts;
- (3) "Budget estimate," the statement with accompanying explanations, as provided in this chapter, in which a budget unit sets forth its financial requirements;
- (4) ~~"Budget message," the required statement by the Governor to the Legislature after its convening, which gives a summary description of his proposed financial policies and plans contained in the budget report, together with his recommendations for additional revenues, if any;~~
- (5) "Budget report," the recommendations of the Governor to the Legislature as to financial plans and appropriations to be requested, with the accompanying statements and explanations provided for in this chapter;
- ~~(6)~~(5) "Budget unit," a department, institution, commission, agency, board, examining board, or other unit of government for which separate appropriations, continuing appropriations or other dedications or earmarking of funds are made or which otherwise collects fees or funds of any nature under authority of any statute of this state;
- ~~(7)~~(6) "Classification of expenditures," one of the several definite kinds of expenditures denoting a class of service or commodities purchased or properties acquired as specified by the commissioner of finance and management for use in expenditure accounting, in the making of budget estimates, and in the budget reports and budgets. Such classification shall be by program, function, activity, organizational unit, character and object;
- ~~(8)~~(7) "General Appropriations Act," an act of the Legislature which authorizes the expenditure of money from public funds for the ordinary current ~~and capital~~ expenditures of the executive, legislative, and judicial departments of the state, the current expenses of state institutions, interest on the public debt, and for public schools, as further defined by rules and regulations issued by the commissioner of finance and management;
- ~~(9)~~(8) "Informational budget," the budget of any budget unit not receiving general fund appropriations;
- ~~(10)~~(9) "Special appropriations act," an act of the Legislature which authorizes the expenditure of money from public funds for any purpose other than those purposes enumerated in the definition of the General Appropriations Act.

Section 13. That § 4-7-1.1 be amended to read as follows:

4-7-1.1. For the purposes of this chapter:

- (1) An "advisory body" is one which serves as an official consultant or advisor to a state agency without making formal policy decisions for the agency or its programs;
- (2) A "legislative body" is one composed primarily of legislators pursuant to chapter ~~1-4~~, 1-26, 1-26B, 2-6, 2-9, 2-11, 2-16, 4-8A, or 4-8B, ~~or 6-11~~;

- (3) A "management body" is a policymaking body which has additional duties, responsibilities, and authority such that they place additional demands upon the body's members in terms of attending meetings, dealing with state agencies and the public, and being knowledgeable in the body's specific subject area; and
- (4) A "policymaking body" is one which monitors and directs the work of an agency by making official policy either through rule making, licensing, or regulatory authority.

Section 14. That § 4-7-9 be amended to read as follows:

4-7-9. The Governor, through the Bureau of Finance and Management, shall prepare and submit a budget report to the Legislature, and copies thereof shall be transmitted to each member of the Legislature, not later than the first Tuesday after the first Monday of December immediately preceding the session for consideration ~~either with or without amendments and modifications by the Legislature. The Governor may present such report to the Legislature in person.~~

Section 15. The Joint Committee on Appropriations may request any department or budget unit to submit a zero based budget scenario pursuant to guidelines and procedures established jointly by the Bureau of Finance and Management and the Legislative Research Council."

Moved by: Dryden
Second by: Partridge
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1046 AS AMENDED

Moved by: Dryden
Second by: Partridge
Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Bordeaux, Ring, Hunhoff (Jean), Partridge, Anderson, Romkema, Jensen (Alex), Dryden, Cronin

MOTION: AMEND TITLE OF HB 1046

1046mta

On page 1, line 1, of the printed bill, delete everything after "Act to" and insert "revise certain provisions regarding zero based budgets, budgeting procedures,".

Moved by: Dryden

Second by: Jensen (Alex)
Action: Prevailed by voice vote.

SB 24: authorize the Board of Regents to demolish buildings on the campus of South Dakota State University and to make an appropriation therefor.

Presented by: Jack Warner, South Dakota Board of Regents
Proponents: Wes Tschetter, SDSU

THE CHAIR DEFERRED SB 24

SB 26: authorize the Board of Regents to demolish the veterinary isolation building on the campus of South Dakota State University and to make an appropriation therefor.

Presented by: Dr. Jack Warner, Board of Regents
Proponents: Wes Tschetter, SDSU

THE CHAIR DEFERRED SB 26

SB 110: revise the authority granted to the Building Authority and to the Board of Regents to construct an information system building on the campus of Dakota State University in Madison.

Presented by: Senator Scott Parsley (Handouts: No. 1)
Proponents: Dr. Jack Warner, Board of Regents
Marysz Rames, Dakota State University
Representative Leslie Heinemann

THE CHAIR DEFERRED SB 110

MOTION: ADJOURN

Moved by: Jensen (Alex)
Second by: Anderson
Action: Prevailed by voice vote.

Mary Turner
Committee Secretary

Justin R. Cronin, Chair

